THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19604 OF 2006

DATED 22nd SEPTEMBER, 2006

BETWEEN

Smt.P.Aruna Kumari W/o P.Jawaharnath

… Petitioner

And

State of A.P., represented by its Secretary,
Revenue Department and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19604 OF 2006

ORDER:

The petitioner allegedly purchased house site admeasuring 169 square yards in survey No.137/A from Nawab Meer Fazalath Hussain Khan and constructed residential house in 1984, which was allegedly regularised by Municipal Corporation of Hyderabad, by proceedings, dated 04.04.1998. She also alleges that her vendors obtained a decree of declaration of title in O.S.No.1472 of 1985 on the file of the I Additional Judge, City Civil Court, Hyderabad. Subsequently, the Government filed LGC No.177 of 1999 before the Special Court constituted under A.P.Land Grabbing Act, 1992, against the vendors in respect of the land in survey No.137/1 of Vikasapuri, which was dismissed on 27.03.2001. However, when the respondents directed her to vacate the property, so as to buy the land, she sought for regularisation of the occupation of the land in her possession. Accordingly, she filed application on 08.09.2003 seeking regularisation as per the Government Orders of the Government in G.O.Ms.No.515 and willing to pay the necessary amounts to the Government for getting regularisation. Her application was considered by the Committee constituted for regularisation on 06.03.2006. In accordance with the decision of the said Committee, the second respondent issued Memo No.R2/5158/2003, dated 11.04.2006. The petitioner was informed that her case for regularisation was accepted as per the orders of the Government in G.O.Ms.No.1601, dated 29.08.2005 and she was requested to pay a sum of Rs.11,70,000/- and 25% of the said amount to be paid within a month and the balance amount in six equal monthly instalments within a total period of 1 ½ years from the date of regularisation. She was also given option to pay a sum of Rs.8,77,500/- excluding the concession of 25% or pay 25% within 30 days and the balance amount of Rs.8,75,500/- in three equal monthly instalments. The petitioner then approached the second respondent informing that she

cannot afford to pay the amount demanded by the respondents and requested to consider her application as per G.O.Ms.No.455, dated 25.07.2002. As the amount was not paid, the third respondent issued a Memo vide Lr.No.C/395/2003, dated 02.09.2006, directing the petitioner to deposit the amount within three days duly informing her that the land will be resumed in default. The Memo of the second respondent and the Memo of the third respondent are challenged in the writ petition as being illegal and arbitrary and contrary to the Government Orders in G.O.Ms.No.515, dated 19.04.2004.

Learned counsel for the petitioner vehemently contends that the petitioner made application seeking regularisation of occupation under G.O.Ms.No.515 and therefore her application ought to have been considered applying the rates specified in Schedule I of G.O.Ms.No.455, dated 29.07.2002. According to her, in the impugned order, the rates specified in G.O.Ms.No.1601 were applied, which is illegal and arbitrary. She also submits that the respondents considered the applications of two other persons, namely, Dr.B.N.Reddy and K.Rajender applying the rates specified in G.O.Ms.No.515 read with G.O.Ms.No.455 but the same benefit is denied to the petitioner, which is arbitrary.

The submissions made by the learned counsel are devoid of any merit for reasons more than one. The Government came forward with the scheme of regularising illegal occupations/encroachments mainly by poor persons for housing as well as those persons, who purchased the properties believing them to be private properties. Initially, G.O.Ms.No.508, dated 20.10.1995 was issued modifying earlier such scheme. As per G.O.Ms.No.508 applications are to be made by all the persons, who encroached the Government land prior to 31.03.1990 and such applications are to be filed before 31.03.1998. As there were number of persons, who do not apply, the Government issued G.O.Ms.NO.515 extending the time for making applications upto 31.12.1998. The petitioner did not make application. She sent her application for regularisation only on 08.09.2003 beyond the time specified in G.O.Ms.No.515. Therefore, her application does not fall under the categories to be dealt with as per G.O.Ms.No.515. In G.O.Ms.No.515, the Government issued following guidelines regarding modalities for regularisation and rates applicable.

It has come to the notice of the Government, that still there are number of encroachments on Government lands. Taking into

consideration of practical difficulties encountered in eviction of illegal encroachments in strict enforcement of Law and to minimize the long pending litigation, Government have reviewed the matter and decided to regularize the eligible encroachments on the Government lands in urban areas by way of residential structures in respect of the encroachments mentioned in the G.O. first read above, based on the following guidelines, namely:-

(i) There shall be a residential structures existing on the Government lands.

(ii) The regularization will be strictly limited to cases, where the encroachment is un-objectionable. Where the lands under encroachment is found more suitable for any public purpose, the Government reserves the right to earmark the land for such public purpose as deemed fit and the encroacher shall be evicted.

(iii) The encroachments by the person below poverty line (i.e., where the income of family consisting of a person, his/her spouse and minor children is below Rs.12,000/- per annum) may be regularized on free of cost upto the following limits.

Municipal Corporations	67 Sq.Mtrs. (80 Sq.Yards)
Municipalities	84 Sq.Mtrs. (100 Sq.Yards)
Panchayats	100 Sq.Mtrs (120 Sq.Yards)

The excess area over and above free of market value limits shall be regularized on payment of market value at the rates specified in Schedule-I of G.O.Ms.No.455, Revenue (U.C.I) Department, 29.07.2002. The excess land in the possession of occupier on which there is already a structure, though the possession is not supported by any registered document of purchase taken into consideration. Structure for the purpose of regularization include any construction which is constructed with walls and covered with a roof of RCC/Tiles/AC Sheets/Zinc sheets or tubular structure but does not include a hut or shed without walls.

The application of the petitioner was considered presumably for the reason that she made the application on 08.09.2003 under G.O.Ms.No.1601. As per the said Government Order, the following rates are applicable.

The following rates are made applicable for regularization of encroachments where structures are being used for residential purposes:

Extent	**Market Value**

1. Upto 500 Sq.yards - The basic value of 1995
2. 501 to 1000 Sq.yards - 50% of current basic value
3. 1001 and above Sq.yards - Current basic value

The following rates are made applicable for regularization of encroachments where structures are being used for non-residential i.e., commercial purposes:

Extent	**Market Value**
1. Upto 500 Sq.yards	- The basic value of 2003
2. 501 to 1000 Sq.yards	- 75% of current basic value
3. 1001 and above Sq.yards	- Current basic value

As seen from the above, if the application is considered under G.O.Ms.No.515, the rates specified in G.O.Ms.No.455 are applicable but the same is not the case when the application is considered under G.O.Ms.No.1601. Therefore, it is futile to contend that she should be governed by G.O.Ms.No.455 in the matter of application of rates. Insofar as the discrimination is concerned, unless and until proper material is placed before this Court to show under what circumstances those persons were regularized applying the rates as per G.O.Ms.No.455 is placed, the issue cannot be decided. If the petitioner is aggrieved, she may approach the Government for proper redressal. In this writ petition, no relief is granted.

The writ petition is accordingly dismissed. No costs.

_____

(V.V.S.RAO,J)

22.09.2006
pln